

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2403873
Decision Date:	6/6/2024	Hearing Date:	04/26/2024
Hearing Officer:	Christopher Jones		

Appearances for Appellant:

Pro se



Appearance for MassHealth:

Kelly Worthen - Springfield Ongoing

Interpreter:



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Community Eligibility; Over-65; Income
Decision Date:	6/6/2024	Hearing Date:	04/26/2024
MassHealth's Rep.:	Kelly Worthen	Appellant's Reps.:	Pro se; Friend
Hearing Location:	Telephonic	Aid Pending:	Yes

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated March 2, 2024, MassHealth downgraded MassHealth benefits from Standard to Senior Buy In because the appellant's income is higher than limits allow. (Exhibit 1; 130 CMR 519.002; 519.010.) The appellant filed this appeal in a timely manner on March 13, 2024, and his benefits are protected pending the outcome of this appeal. (Exhibit 2; 130 CMR 610.015(B); 610.036.) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth downgraded the appellant's benefits based upon his age and income.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.002 and 520.000, in determining that the appellant's income is too high to qualify for MassHealth Standard.

Summary of Evidence

The appellant turned [REDACTED] years old during the Federal Public Health Emergency for the Covid-19 Pandemic ("FPHE"). During the FPHE, he was covered by MassHealth Standard as a disabled adult. Following the end of the FPHE protections, the appellant submitted an over-[REDACTED] application.

MassHealth requested additional information from the appellant, the last of which was provided on January 3, 2024. MassHealth's representative testified that MassHealth updates its income thresholds every March, even though the income standards change in January. Because of this delay, MassHealth did not process the application until March. The appellant's income was verified as \$1,649 in gross income from Social Security, and \$93.46 per month from a pension.

100% of the federal poverty level (FPL) for an individual in 2024 is \$1,255 per month. MassHealth's representative testified that disabled adults over the age of [REDACTED] are eligible for MassHealth Standard with income below 100% of the FPL. MassHealth generally allows a deduction of \$20 from unearned income, but the appellant's income is still equivalent to 137% of the federal poverty level. There is a larger deduction for people who require physical assistance, but it only qualifies the applicant for Standard coverage if their income is below 133% of the federal poverty level.

The appellant testified that he was about to be assessed for the Frail Elder Waiver. MassHealth's representative confirmed that, if he was clinically eligible for that, his MassHealth Standard would be reinstated because he is below the income threshold for that program. MassHealth's representative also attempted to explain the CommonHealth benefit to the appellant. This program involves working 40 hours per month, albeit not in traditional employment, and the member needs to provide a letter from the "employer" explaining what work is being done and confirming that the member is paid at least one dollar per hour for 40 hours per month. The appellant was upset by this requirement to provide a working-letter for the CommonHealth program, and he hung up on the appeal. The appeal concluded with the appellant's representative. She understood that he could still be eligible through the Frail Elder Waiver and said if he was ineligible for that they would explore CommonHealth. She asked for a decision to document the options as well.

Findings of Fact

Based on a preponderance of the evidence, I find the following:

- 1) The appellant is a disabled individual, over the age of [REDACTED] (Testimony by MassHealth's representative.)
- 2) The appellant completed a renewal following the end of the FPHE. (Testimony by MassHealth's representative.)
- 3) The appellant has verified income of \$1,649 in gross Social Security, and \$93.46 per month from a pension. (Testimony by MassHealth's representative.)

Analysis and Conclusions of Law

MassHealth offers a variety of benefits based upon an individual's circumstances and finances. To qualify for MassHealth, an individual must fit into a category of eligibility and fall below a certain

financial threshold. One of the major dividing lines for eligibility is the age of [REDACTED]. Individuals aged [REDACTED] and older are generally governed by the regulations at 130 CMR 515.000-520.000, and those under [REDACTED] are typically determined by the regulations at 130 CMR 501.000-508.000.

The financial rules set out at 130 CMR 520.000 explain that all of an individual's "gross earned and unearned income less certain business expenses and standard income deductions" is countable, and "the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility." (130 CMR 520.009(A)(1)-(2).) There are only two income deductions from a community resident's unearned income: (1) "a deduction of \$20 per individual or married couple" or (2) a larger deduction if the individual "requires assistance from a personal care attendant." (130 CMR 520.013(A)-(B).) However, if the applicant's income is over 133% of the federal poverty level prior to the PCA deduction, the applicant still receives a deductible. (130 CMR 520.013(C).) Earned income receives a deduction of \$65, and then only half of the remaining income is countable. (130 CMR 520.012.)

The requirements for receiving MassHealth Standard for individuals over [REDACTED] who are living in the community are:

519.005: Community Residents [REDACTED] Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals [REDACTED] years of age and older may establish eligibility for MassHealth Standard coverage provided they meet the following requirements:

- (1) the countable-income amount, as defined in 130 CMR 520.009: *Countable-Income Amount*, of the individual or couple is less than or **equal to 100 percent of the federal poverty level**; and
- (2) the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less.

(B) Financial Standards Not Met. Except as provided in 130 CMR 519.005(C), individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.005(A) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or both.

(130 CMR 519.005(A)-(B) (emphasis in **bold**).)

Medicare recipients may qualify for a Medicare Savings Program with income at or below 225% of the federal poverty level. (See 130 CMR 519.010-519.011.) MassHealth refers to these benefits as "Buy-in" benefits, and the amount of assistance provided depends on the member's income. Individuals with income below 190% of the federal poverty level are eligible for the Medicare

Savings Program (“MSP”) – Qualified Medicare Beneficiaries (“QMB”). This benefit pays for “Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B” (130 CMR 519.010.) This benefit may only start “the first day of the calendar month following the date of the MassHealth eligibility determination.” (130 CMR 519.010(C).) However, CommonHealth members are only eligible for the MSP – Qualifying Individuals (“QI”),¹ and only with income at or below 135% of the federal poverty level. (130 CMR 519.012(D)(1).)

A disabled adult aged ■ or older may qualify for CommonHealth coverage with income in excess of the federal poverty level. However, CommonHealth coverage for individuals over ■ is only for “working disabled adults ... [which] means that eligible applicants must meet the requirements of 130 CMR 505.004(B)(2), (3) and (5) to be eligible for CommonHealth.”² (130 CMR 519.012(A)(1).) Those additional criteria are:

(2) be employed at least 40 hours per month, or if employed less than 40 hours per month, have been employed at least 240 hours in the six-month period immediately preceding the month of receipt of the application or MassHealth's eligibility review;

(3) be permanently and totally disabled (except for engagement in substantial gainful activity) as defined in 130 CMR 501.001: Definition of Terms;

... [and]

(5) be ineligible for MassHealth Standard

(130 CMR 519.012(B).)

After the \$20 standard deduction, the appellant’s unearned monthly income is \$1,722.46. This is equivalent to 137% of the federal poverty level of \$1,255. Because the appellant’s income is below 190% of the federal poverty level, MassHealth is correct that the appellant is eligible for the MSP—QMB benefit (previously known as Senior Buy-in). However, he is not eligible for MassHealth Standard at this time.³

¹ The MSP—QI benefit only pays for the Medicare Part B premium. There is no additional assistance with copays, coinsurance, and deductibles. (130 CMR 519.011(B)(2).)

² Disabled adults aged ■ to ■ no longer need “to meet a one-time deductible or be employed at least 40 hours per month.” (EOM 23-28, Dec. 2023.) The working requirement now only applies to disabled adults over the age of ■ seeking CommonHealth coverage.

³ If the appellant is found clinically eligible for the Frail Elder Waiver program, his income is “less than or equal to 300% of the federal benefit rate (FBR) for an individual,” and he will be eligible for MassHealth Standard. (See 130 CMR 519.007(B)(2).) Otherwise, he is welcome to submit a working-disabled letter to MassHealth to become eligible for CommonHealth coverage. This coverage would not have a premium, as the appellant’s income is below 150% of the federal poverty level. (See 130 CMR 520.011(B)(2)(b).)

MassHealth made no error in calculating the appellant's eligibility.

Therefore, this appeal is DENIED.

Order for MassHealth

Remove Aid Pending.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104

